

SELF SERVICE CENTER
INSTRUCTIONS: HOW TO FILL OUT YOUR LEGAL SEPARATION
-- WITH CHILDREN ORDER

Use these instructions only with the "Decree of Legal Separation-- With Children." If there are no minor children, by birth or adoption, common to you and your spouse, use the form for a decree without children.

What the Decree Means to You. The Decree is the Court Order that legally separates you and your spouse. You are not divorced and cannot marry someone else until you have a **"Decree of Dissolution of Marriage."** The Decree, once the judge or commissioner has signed it, is important because it determines the rights and responsibilities of both you and your spouse. If either party does not do what the Decree tells him or her to do, then the other party may ask the court for help. Once it has been signed by the judge, your rights and responsibilities are affected forever. You should see a lawyer before you sign this document or any other legal document.

Failure to do what the Decree tells you to do could get you into trouble with the Court. This does not mean that the court will police whether you are following the Decree. It does mean you or your spouse can request a Contempt Order or an Order to Enforce parts of the Decree if you or your ex-spouse fail to do what the Decree tells you to do.

Getting a Legal Separation Decree. Before you and your spouse become legally separated, a judge or Commissioner must sign what we call a Decree of Legal Separation. The Decree tells you who gets the property, who pays the debts, who gets custody, who pays support and so forth.

Legal Separation by Default. If you have a Default Hearing, you must repeat as closely as possible what you requested in your Petition for Legal Separation. You cannot mark something different in the Decree from what you asked for in the Petition. If you try to do this, the judge or commissioner will not sign the Decree. If you want to change your requests to the court, you must file an amended Petition. It is a good idea to have your Petition handy when you follow the instructions to fill out your Decree.

Legal Separation by Consent. If you and your spouse agree, you can fill out the Stipulation for Consent and the Decree of Legal Separation. If you agree, it does not matter what the Petitioner asked for in the Petition for Legal Separation.

The Decree. Fill out the Decree before you go to your hearing or before you give it to the judge to sign. Do not fill in the judge's signature and date. If the judge disagrees with anything you have written, he or she will change it before signing the Decree.

INSTRUCTIONS FOR FILLING OUT THE DECREE. (The section number in front of each paragraph below corresponds with the section number on the Decree. For example: Read Section 1-3d below. Turn to Sections 1-3d on the Decree. Each section below will help you fill out each section of the Decree.)

SECTION: TYPE OR WRITE IN BLACK INK ONLY.

- (A)** Write in the Petitioner's Name, current address, city, state, zip code, and the telephone number. If you have an ATLAS number, write in the number. (The person who filed the Petition for divorce is the Petitioner.) Then check the box to show whether you are representing yourself, or if you are an attorney representing Petitioner or Respondent.

- (B) Write in the Name of the Petitioner and the Name of the Respondent in the space provided.
- (C) Write in your court case number. Then check the box to say whether you are filing this Decree by Consent, by Default, or after Trial.

COURT FINDINGS

SECTION:

(E)

- 1-3.e.** This section tells you that before the judge or commissioner signs the Decree, he or she will have determined that the court has the legal power to make the orders in your case. It also says that either you or your spouse live in Arizona, and that the parties are unable to get back together and save their marriage. The judge or commissioner must also determine that both you and your spouse want a legal separation. (If one of you do not want a legal separation, the judge or commissioner can dismiss your case or turn it into a divorce case.)
- 3.f. Community Property and Debt.** Mark the first box **only** if you and your spouse did not get any property together while you were married and do not owe money to anyone for property or services you got while you were married. Otherwise, mark the box that tells the court that the parties have agreed to a division of the community property and/or debt or the parties have not agreed to a division, but the community property is divided pursuant to the Decree.
- 3.g. Pregnancy.** Mark the first box if the wife is not pregnant. Mark the second box if the wife is pregnant and then mark whether the husband is the father.
- 3.h. Spousal Maintenance/Support (Alimony).** Mark this box if you have requested spousal maintenance/support (alimony) in the Petition for Legal Separation or the parties have agreed or the judge has ordered that one party will pay the other party spousal maintenance/support.
- 3.i. Parent Information Program.** Tell the court whether you and your spouse have attended the Parent Information Program Class. (If you have attended the class, make sure your “**Certificate of Completion**” was filed with the court.).
- 3.j. Custody of the Minor Child(ren).** Mark this box only if custody was contested (you and the other party did not agree about custody), or if you and the other party have agreed to joint custody. You must write the reasons in the space provided. See the “**Parenting Time (Visitation) Guidelines**” for help.
- 3.k. Supervised of No Parenting Time.** Mark this box only if you asked for supervised or no parenting time by the non-custodial spouse in your Petition or the parties have agreed to this. You must have a very good reason for such a request and you write the reasons in the space provided. See the Parenting Time (Parenting time) Guidelines for help.

COURT ORDERS

SECTION

(F)

- 1. LEGALLY SEPARATED.** This section legally separates you and your spouse.
- 2. ENFORCEMENT OF TEMPORARY ORDERS.** If the Court ordered temporary payment of child support, spousal maintenance/support (alimony), debt division, or other temporary orders, fill in the dates of ALL of the temporary orders. This section allows you to enforce nonpayment of those debts.

3.a. SPOUSAL MAINTENANCE/SUPPORT. Mark this box if neither party is requesting spousal maintenance.

3.b. Mark this box if you requested spousal maintenance/support (alimony) in the Petition and you have a Default Hearing. (You cannot get spousal maintenance/support if the other party was served by publication.) **OR**, Mark this box if the parties agreed or the court ordered that one party would pay the other party spousal maintenance/support.

Then mark who is to pay the spousal maintenance/support and who will receive the spousal maintenance/support. If the parties agree, put in the amount and the date the spousal maintenance/support will end. Otherwise, you should leave the amount and number of months of spousal maintenance/support blank until the judge approves the request. Be prepared to tell the judge what amount you are asking for, for what period, and why.

4.a. PROPERTY, DEBTS AND TAX RETURNS. Mark the first two boxes, if each party will pay the debts that are unknown to the other party. By marking the third box under 4.a., you are telling the court you do not want to pay for bills your spouse got after you separated. Write the approximate date you separated on the line provided.

4.b. Mark this box if there is property and debts to be divided, even if you have already divided the property. You can give the Court this information on **EXHIBIT A: COMMUNITY PROPERTY AND DEBTS** that you must attach to the Decree if you mark this box. Instructions for Exhibit A are included at the end of this instruction.

4.c. This states that you and your spouse get to keep property that you owned from the marriage or that was a gift to you during the marriage. You also can keep any personal items, clothing, and any other property you own that is not considered community property.

4.d. This means either spouse can record the Decree if there is a transfer of title to certain property, like a house. This section also requires each spouse to sign documents to transfer other property, like titles to cars, and so forth. If you have a quit claim deed that transfers property from one spouse to the other spouse, attach a copy of the deed to the Decree, and check this box.

4.e. Mark this box and tell the court whether the parties will file joint or separate tax returns for previous years if taxes have not been paid and how the parties will pay taxes for the present year and continuing years. According to the IRS, AState law governs whether you are married, divorced, or legally separated. See a lawyer or accountant for advice if you are not sure which box to check **OR** call the IRS at 1-800-829-4477 or visit their **INTERNET** site at <http://www.irs.ustreas.gov> for help.

5.a-b. CHILD CUSTODY, PARENTING TIME AND CHILD SUPPORT. This section deals with child custody, parenting time and child support. If the wife is pregnant, write in the expected date of birth for the unborn child. You must also write the names of the children common to the marriage, either natural or adopted, and the child(ren)'s date(s) of birth and social security numbers in the space provided.

5.c. CHILD CUSTODY. The custody box you mark should be the same as what you asked for in your Petition for Legal Separation, unless you and the other party have signed a Joint Custody Agreement/Parenting Plan and you are attaching it to the Decree **OR** you and the other party have agreed to file a Consent Decree.

1) For sole custody of the child(ren), mark who is to have sole custody, Petitioner or Respondent. Then mark **only** one of the three types of parenting time: 1) parenting time to the parent not having custody; or 2) supervised; or 3) no parenting time. If both

spouses agree to a Parenting Plan, both must complete the Plan and sign it. If only one spouse agrees to the Parenting Plan and you have a default divorce hearing, you still must complete the Parenting Plan and tell the Court what you think should be the parenting time arrangement. If parenting time is supervised and you have a default hearing or you agree, write in the name of the supervisor and any restrictions. Mark who will be paying for costs of supervision. If no parenting time is to be given to the Petitioner or the Respondent, check this box.

- 2) For Joint Custody you should not have marked box 1 above. Remember, you must attach a copy of the Joint Custody Agreement/Parenting Plan as Exhibit B signed by both parents, which the court at the hearing must approve if you want Joint Custody. The Agreement will be included as part of the Court Order ending your marriage.

5.d. CHILD SUPPORT: Mark who is to pay the child support to the other party based on the request in the Petition for Legal Separation or on the party's agreement. If the parties agree to how much child support will be paid, write in the amount. Otherwise, leave the space blank and the Judge will fill in the amount. Remember, if you are the person who filed for legal separation, you are the Petitioner, and your spouse is the Respondent. The Court may also sign a Child Support Order. Be sure you read and understand the Order.

5.e. MEDICAL AND DENTAL INSURANCE, PAYMENTS, AND EXPENSES: Mark who will be responsible for medical and dental insurance, based on the request made in your Petition or the parties agreement. Mark what percent each party will pay for uninsured expenses.

5.f. FINANCIAL INFORMATION EXCHANGES: This shows that the parties must share/exchange financial information every 24 months. This information is important in determining amounts of child support or other related issues.

5.g. TAX EXEMPTIONS: Decide which parent will claim the children on income tax forms, for which year. Federal and state laws apply here. If you are not sure what to do, ask a lawyer or an accountant for help.

5.h. CHILDREN TO WHOM THE DECREE DOES NOT APPLY: Mark this box **only** if a child(ren) was born during the marriage, but is not common to the marriage. Mark which party should have no legal rights to this child. If you mark this box, list the name of any such child(ren) with the date of his or her birth in the space provided. Also, mark if the wife is pregnant with a child not common to the marriage, and include the expected due date of the child.

6. LIMITATION ON JURISDICTION: This shows that the Court only has jurisdiction to Order a party to make payments if that party has been personally served. This means that if you served your spouse by publication, you cannot get a child support, spousal maintenance, or similar order until you find and serve your spouse.

7. OTHER ORDERS. List any other orders that are not described in the Decree.

SIGNATURES SECTION (G)

- Do not sign or date the Decree for the Judge or Commissioner
- You must sign the Decree telling the Court that you have read, approved and agreed to the Decree. Your signature must be notarized. If a lawyer represents you or the other party, the lawyer must also sign the Decree. If you are filing a Consent Decree, the other party, the Respondent, must sign the Decree telling the Court that he or she has read, approved, and agreed to the Decree. The other party's signature must be notarized.

- If there is a Default Hearing, you, the Petitioner, must also promise to mail a copy of the Decree to the Respondent, after the Judge has signed it.

EXHIBIT A COMMUNITY PROPERTY AND DEBT SECTION (H)

IF YOU MARKED the first box of 3.e. ON YOUR DECREE AND HAVE NO COMMUNITY PROPERTY OR DEBTS, STOP HERE. You have completed your Decree. If you have community property or community debt listed in your Petition, you should copy the information from that part of your Petition to Exhibit A. **REMEMBER:** if you are going by default, the division of property must be identical to the list in your petition. You cannot add new community property to the list, although you can give your spouse more property than that listed on your petition.

In addition, you must be specific. You must describe the property and/or debt that should go to or be paid by you and then check that box. You must describe the property and/or debt that should go to or be paid by your spouse and then check that box. For example, under household furnishings you could say, blue and white living room sofa, and then check the box to say whether it should go to you or to your spouse. Never list an item and then check both the Petitioner box and the Respondent box.

- 8.a-b. Division of Community Property.** Mark the first box about community property, if you have community property. Mark the box next to each type of community property you own, and describe the property. Then mark the box showing which party the property is being given to.

Mark the box "award each party the personal property in his or her possession," if you want the Court to order this. Mark the box "continued on reverse side or see attached list" if this is true.

- 8.c. Retirement, Pension, Deferred Compensation.** Decide what you want to do about these assets. Generally, each spouse is entitled to a 2 interest in the pension or retirement or deferred compensation benefits of the other spouse for the time the parties were married. This is **very complicated, and very important to both spouses. If you are entitled to any interest in your spouse's retirement assets, you may be required to file a Qualified Domestic Relations Order. This is a very important document. The Court and the Self-Service Center do not have this document. See a lawyer for help.** Check the box that describes what you asked for in the Petition or what the parties have agreed to.

- 8.d. Division of Real Property:** Use this section if you own a home or real estate together. This information, including the address and legal description should also be the same as what you provided in the Petition. **IT IS VERY IMPORTANT THAT YOU WRITE IN THE CORRECT ADDRESS AND LEGAL DESCRIPTION OF EACH PIECE OF REAL PROPERTY.** Decide which spouse gets the property, OR whether it should be sold and any proceeds divided. If you used your own earnings to pay for property owned by only your spouse, see a lawyer for help.

If you or the other party have signed a Quit Claim Deed, check this box and attach a copy of the Quit Claim Deed. The original Quit Claim Deed should be recorded in the county where the property is located. If the property needs to be sold and you agree on the name of someone to sell the property, check this box and write in the person's name.

- 8.e. Division of Debts:** List all debts you listed on your Petition. You can update the amounts owed, only if the amounts are less than those amounts in the Petition or the parties agree to update the amounts. Then put which debts are to be the responsibility of which party.

Also, decide if you want the order to divide debts incurred by a spouse that are not listed to be paid by the spouse who incurred the debt. Remember, just because the Decree orders either spouse to pay debts does not mean that the creditor cannot pursue collection from the other spouse, even after the legal separation decree.

SIGNATURES:

SECTION

(I)

- You must sign Exhibit A telling the Court that you have read, approved and agreed to Exhibit A. Your signature must be notarized. If a lawyer represents you or the other party, the lawyer must also sign the Decree. If you are filing a Consent Decree, the other party, the Respondent, must sign the Decree telling the Court that he or she has read, approved, and agreed to the Decree. The other party's signature must be notarized. If only the Petitioner completes this list, the judge will still look over the list and decide whether the division you want is fair and proper.

OTHER DOCUMENTS YOU MUST GIVE TO THE JUDGE WITH THE DECREE:

1. Order of Assignment and Current Employment Information
2. Child Support Worksheet and Order
3. Judgment Data Sheet

REMINDER:

1. **Be sure to attach Part A about property and debts to your decree.**
2. **Be sure to attach the Parenting Plan. If you have marked joint custody or if the parties have signed a Parenting Plan.**
3. **Be sure to include a quit claim deed, if a quit claim deed has been signed.**